



# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: September 23, 2008

FROM: Jorge G. Gomez, AICP   
Planning Director

SUBJECT: File No. 1893 -1800 Bay Drive – Boat Dock

The applicants, Manuel and Marta Airala, are requesting Conditional Use approval for an after-the-fact "T"-shaped boat dock and boat lift for a total projection of approximately 52 feet from the bulkhead.

### **ZONING / SITE DATA**

Under section 66-113 of the City Code, docks, dolphin poles, mooring piles or structures of any kind that extend into any waterway that is more than 100 feet in width, may extend a distance not greater than 15 percent of the width of such waterway at that specific location, but not to exceed a distance greater than 40 feet, except as provided in Section 142-1132(l). This particular section of the City Code states: "The maximum projection of a marine structure shall be determined by the county Department Of Environmental Resource Management." And that "If a dock or any kind of marine structure/equipment projects more than 40 feet into the waterway ....., it shall be a conditional use..."

It should also be noted that Sec. 66-113, "Limitation on projection of structures," states that any boat, ship or vessel of any kind shall not be docked or moored so that its projection into the waterway would be beyond the permissible projections for such docks, wharves, dolphin poles, mooring piles or other structures subject to conditional use process.

**Legal Description:** Less the East 40 feet of lots 9 and 10, block 27 of Isle of Normandy Miami View Section, according to the plat thereof, as recorded in Plat Book 34, Page 80 of the Public Records of Miami-Dade County, Florida.

**Zoning:** RS-4 Single Family Residential

**Land Uses:** Single family homes

### **COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

1. **The Use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent** - The project is consistent with the Conservation and Coastal Management Element of the Comprehensive Plan.

2. **The intended Use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.**

**Consistent** - The proposed project is not anticipated to exceed the Level of Service (LOS) for the surrounding area.

3. **Structures and uses associated with the request are consistent with this Ordinance.**

**Consistent** - No variances will be necessary.

4. **The public health, safety, morals and general welfare will not be adversely affected.**

**Consistent** - The proposed project would not contravene this objective.

5. **Adequate off-street parking facilities will be provided.**

Not applicable.

6. **Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.**

**Partially Consistent** - Although this use is not expected to have a detrimental impact on the neighborhood, an adjacent neighbor has complained to the City and DERM that the boat lift is obstructing views.

7. **The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

Not Applicable.

## **ANALYSIS**

The subject site consists of a single family home located on the south side of Bay Drive on Normandy Isle, on wide open Biscayne Bay. The site plan and photos submitted for this application show an already built "T"-shaped boat dock and a 15,000 lb. boat lift with 12 wood piles and 4 concrete piles projecting a total of 52 feet 2 inches water ward from the seawall. The seaward side yard setbacks are in compliance with requirements of Section 142-1132 of the City Code.

The Miami Dade County Department of Environmental Resources Management (DERM) conducted a biological assessment of the site, which found the presence of dense sea grasses and inadequate water depth in the area of a proposed "L" -shaped dock. In order to minimize adverse impacts to marine resources and attain the necessary depth required by the County Code, DERM recommended that the dock be constructed using light transmitting materials (grated decking) and be configured in a "T"- shape with a narrow 4 foot by 30 foot access walkway and an 8 foot by 20 foot terminal platform centered on the property and that the boat lift be installed waterward of the terminal platform. The intention was to keep the larger part of the dock and the boatlift/slip area out where resources are minimal. Plans were approved according to the recommendations from DERM; however, the plans approved showed a hand-written line with the indication that total projection including the boat lift was 40 feet.

One of the adjacent neighbors has complained to City officials and DERM claiming that the subject boat lift blocks the views and that its location, waterward from the terminal platform, makes it more difficult to navigate through in order to dock his boat. At the time the complaint was received Planning Department staff asked one of its zoning inspectors to inspect the site and determine whether the dock and boat lift exceeded 40 feet from the bulkhead. Because the projection exceeds the 40 feet allowed by the City Code, a notation was placed in the permit records that a final certificate of completion/occupancy should not be approved until the property owner applied for and obtain approval from the Planning Board pursuant to the requirements of Section 66-113 and Section 142-1132(l) of the City Code.

Staff informed DERM of such complaint and asked whether DERM would be in agreement with the relocation of the boat lift. DERM replied in an email to staff that an aerial review of existing structures was completed as part of the evaluation of the Class I permit application and it was determined that the installation of the dock configured in accordance with DERM's recommendation would not have an adverse impact on navigation. Further, such relocation would result in a larger shaded area and removal and reinstallation would result in further impacts to the dense sea grasses. In addition, DERM states that moving the boat lift to the side of the terminal platform would create an additional slip and still allow for the mooring of a vessel at the waterward edge of the dock.

DERM issued a Class I permit for this project, but has not yet completed final inspection. Although the plans show the terminal platform and boat lift located beyond the D-5 triangle, DERM did not require letters of consent from the adjacent property owners; however, DERM may request them on a case by case basis. It should be noted that DERM determines the total projection of any marine structure in order to avoid damage to biological assets on the bay bottom. Should the total projection exceed those permitted by the City Code, Conditional Use approval must be obtained from the Planning Board.

The following list shows marine structures that have been approved as Conditional Use in the general vicinity:

1. 1340 Bay Drive – dock and mooring piles - 70 feet from the seawall – November 26, 1996.
2. 1330 Bay Drive - mooring piles - 57 feet from the seawall – June 26, 2005.
3. 1570 Bay Drive – dock and boatlift - 55 feet from the seawall – November 27, 2007.
4. 1710 Bay Drive – 53 feet from the seawall – January 22, 2008.

#### **STAFF RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Conditional Use be approved subject to the following conditions:

1. The Planning Board shall maintain jurisdiction on this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Conditional Use approval at the time of the progress report in a non-substantive manner, to impose additional conditions to address possible problems, and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. The mooring of commercial vessels shall be strictly prohibited, as is the mooring of any vessel or craft along the length of the walkway leading to the terminal platform.
3. Pursuant to Section 66-113 of the City Code, no vessel shall be docked or moored so that its projection into the waterway would be beyond the permissible projection of 52' 2" as approved herein.

4. In order to prevent undue disturbance to the neighboring residences fronting the waterway, the use of this dock for dockage, mooring, storage, launching, beaching or servicing of personal watercraft (such as Jet-Skis, Wave Runners, and other similar types of personal watercraft) shall be prohibited unless such personal watercraft contains a 4-stroke engine.
5. The only lights permitted shall be those required by DERM, the U.S. Coast Guard and any other permitting agency for navigational safety, including but not limited to navigational reflectors on the mooring piles. One electric light equipped with a motion sensor may be installed at the terminal platform for security purposes. Lights and reflectors shall be indicated on the plan and shall be subject to the review of staff prior to the issuance of a building permit, and shall be the minimum height and number required to meet the standards of DERM, the U.S. Coast Guard or any other permitting agency.
6. Lighting associated with, but not limited to, the deck, vessel or marine structure shall be installed in such a manner as to minimize glare and reflection on adjacent properties and not to impede navigation. All lighting shall be erected so as to direct light only on the premises on which they are located, and shall be contained on site.
7. The project shall receive final approval by the Miami-Dade County Department of Resource Management (DERM), as well as any other county, state or federal permitting agency as may be required.
8. A final approval by the City's Building Department shall not be issued until this Conditional Use Permit has been recorded in the Public Records of Miami-Dade County at the expense of the applicant.
9. A Conditional Use Permit that lists all the conditions required by the approval of this Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant.
10. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
11. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-7 of said Code and such enforcement procedures as are otherwise available. Failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use permit.

JGG/ML/KH

c: Gary Held, First Assistant City Attorney